

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 82

Introduced by Assembly Member Evans

December 23, 2008

An act to ~~amend Sections 369.5 and 739.5~~ *add and repeal Sections 369.6 and 739.6* of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 82, as amended, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child or a ward who has been removed from the physical custody of his or her parent. Existing law requires court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would, *in a pilot project operative only until January 1, 2013, in 3 counties that meet specified criteria and that are selected by the State Department of Social Services*, expand the authority of a juvenile court judicial officer to make orders regarding the

administration of psychotropic medications to include a dependent child or ward who has been removed from the physical custody of his or her parent or guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The ~~bill~~ *pilot project* would require the physician submitting the request for psychotropic medication to have conducted an examination of the child or ward. The ~~bill~~ *pilot project* would require the request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication. The ~~bill~~ *pilot project* would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and developmentally appropriate manner, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks, and any other recommended treatments, that the child or ward has been informed of the right to request a hearing, and that a plan is in place for regular monitoring of the medication, as specified.

~~This bill~~

The pilot project would require a dependent child or ward to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. ~~The bill would require the court to make specified orders upon authorizing the administration of psychotropic medication to a child or ward.~~ The *pilot project* would authorize the court to inquire about specified information in any proceeding in the juvenile court following court authorization for the administration of psychotropic medication to a child or ward.

~~This bill would require the State Department of Mental Health, on or before July 1, 2010, to identify or develop and make available written materials to assist county welfare agencies and mental health care providers in providing age-appropriate information to minors concerning psychotropic medications.~~

The bill would require the State Department of Social Services, after consultation with the State Department of Mental Health, to report to the Legislature regarding the pilot project before July 1, 2013.

The bill would require the Judicial Council to adopt rules and forms to implement these provisions on or before July 1, 2010.

These provisions would remain in effect until January 1, 2014.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 369.6 is added to the Welfare and*
2 *Institutions Code, to read:*

3 369.6. (a) *Notwithstanding Section 369.5, this section*
4 *establishes a pilot project operative only until January 1, 2013,*
5 *in three counties, one each from the northern, southern, and central*
6 *areas of the state and each with a population of less than two*
7 *million five hundred thousand (2,500,000), to be selected by the*
8 *department.*

9 (b) *If a child is adjudged a dependent child of the court under*
10 *Section 300 and the child has been removed from the physical*
11 *custody of the parent or guardian under Section 361, or if the child*
12 *has been removed from the physical custody of a parent or*
13 *guardian pending adjudication pursuant to Section 319, only a*
14 *juvenile court judicial officer shall have authority to make orders*
15 *regarding the administration of psychotropic medications for that*
16 *child. The juvenile court may issue a specific order delegating this*
17 *authority to a parent or guardian upon making findings on the*
18 *record that the parent or guardian poses no danger to the child*
19 *and has the capacity to authorize psychotropic medications. Court*
20 *authorization for the administration of psychotropic medication*
21 *shall be based on a request from a physician indicating the reasons*
22 *for the request, a description of the child's diagnosis and behavior,*
23 *the child's medical history, the expected results of the medication,*
24 *the nature, degree, duration, and probability of side effects and*
25 *significant risks commonly known by the medical profession and*
26 *a description of any clinically indicated therapy recommended for*
27 *the child to participate in during the six-month period until the*
28 *next court review of psychotropic medication.*

29 (c) *The physician submitting the request for psychotropic*
30 *medication shall have conducted an examination of the child in*
31 *compliance with Section 2242 of the Business and Professions*
32 *Code.*

1 (d) Before authorizing the administration of psychotropic
2 medication, the juvenile court judicial officer shall make the
3 following findings:

4 (1) The child's caregiver has been informed, and the child has
5 been informed in an age and developmentally appropriate manner;
6 about the recommended medications, the anticipated benefits, the
7 nature, degree, duration, and probability of side effects and
8 significant risks commonly known by the medical profession, and
9 any other recommended treatments, and that the child has been
10 informed of the right to request a hearing pursuant to subdivision
11 (h).

12 (2) A plan is in place for regular monitoring of the child's
13 medication plan, the effectiveness of the medication, and any
14 potential side effects, by the physician in consultation with the
15 child's caregiver, mental health care provider, and others who
16 have contact with the child, as appropriate.

17 (e) If a hearing is conducted pursuant to subdivision (h), the
18 child shall be present in court for the hearing unless the child
19 waives the right to attend after consulting with counsel or the court
20 finds that there is good cause for the child's absence from the
21 proceedings.

22 (f) In any proceeding in the juvenile court following court
23 authorization for the administration of psychotropic medication
24 to a child, the court may inquire about all of the following:

25 (1) As reported by the child's physician or other health care
26 professional, the effectiveness of the medication and any side effects
27 experienced by the child, the child's progress toward meeting the
28 goals outlined in the child's treatment plan and in any concurrent
29 therapy or other mental health treatment, and, if applicable, any
30 steps recommended to increase the effectiveness of the medication,
31 to reduce side effects, or to obviate the need for continued
32 administration of the medication.

33 (2) Any behavior changes and possible side effects that have
34 been observed by individuals who have regular contact with the
35 child.

36 (3) Any statements or concerns expressed by the child regarding
37 the medication.

38 (g) (1) In counties in which the county child welfare agency
39 completes the request for authorization for the administration of
40 psychotropic medication, the agency is encouraged to complete

1 *the request within three business days of receipt from the physician*
2 *of the information necessary to fully complete the request.*

3 *(2) Nothing in this subdivision is intended to change current*
4 *local practice or local court rules with respect to the preparation*
5 *and submission of requests for authorization for the administration*
6 *of psychotropic medication.*

7 *(h) Within seven court days from receipt by the court of a*
8 *completed request, the juvenile court judicial officer shall either*
9 *approve or deny in writing a request for authorization for the*
10 *administration of psychotropic medication to the child, or shall,*
11 *upon a request by the parent, the legal guardian, or the child's*
12 *attorney, or upon its own motion, set the matter for hearing.*

13 *(i) Psychotropic medication or psychotropic drugs are those*
14 *medications administered for the purpose of affecting the central*
15 *nervous system to treat psychiatric disorders or illnesses. These*
16 *medications include, but are not limited to, anxiolytic agents,*
17 *antidepressants, mood stabilizers, antipsychotic medications,*
18 *anti-Parkinson agents, hypnotics, medications for dementia, and*
19 *psychostimulants.*

20 *(j) Nothing in this section is intended to supersede local court*
21 *rules regarding a child's right to participate in mental health*
22 *decisions.*

23 *(k) The Judicial Council shall adopt rules and forms to*
24 *implement the provisions of this section on or before July 1, 2010.*

25 *(l) The department, after consultation with the State Department*
26 *of Mental Health, shall report to the Legislature regarding the*
27 *findings of the pilot project established pursuant to this section*
28 *before July 1, 2013.*

29 *(m) This section shall remain in effect only until January 1,*
30 *2014, and as of that date is repealed, unless a later enacted statute,*
31 *that is enacted before January 1, 2014, deletes or extends that*
32 *date.*

33 *SEC. 2. Section 739.6 is added to the Welfare and Institutions*
34 *Code, to read:*

35 *739.6. (a) Notwithstanding Section 739.5, this section*
36 *establishes a pilot project operative only until January 1, 2013,*
37 *in three counties, one each from the northern, southern, and central*
38 *areas of the state and each with a population of less than two*
39 *million five hundred thousand (2,500,000), to be selected by the*
40 *department.*

1 (b) If a minor who has been adjudged a ward of the court under
2 Section 601 or 602 is removed from the physical custody of the
3 parent or guardian under Section 726 and placed into foster care,
4 as defined in Section 727.4, only a juvenile court judicial officer
5 shall have authority to make orders regarding the administration
6 of psychotropic medications for that minor. The juvenile court may
7 issue a specific order delegating this authority to a parent or
8 guardian upon making findings on the record that the parent or
9 guardian poses no danger to the minor and has the capacity to
10 authorize psychotropic medications. Court authorization for the
11 administration of psychotropic medication shall be based on a
12 request from a physician, indicating the reasons for the request,
13 a description of the minor's diagnosis and behavior, the minor's
14 medical history, the expected results of the medication, the nature,
15 degree, duration, and probability of side effects and significant
16 risks commonly known by the medical profession, and a description
17 of any clinically indicated therapy recommended for the minor to
18 participate in during the six-month period until the next court
19 review of psychotropic medication.

20 (c) The physician submitting the request for psychotropic
21 medication shall have conducted an examination of the minor in
22 compliance with Section 2242 of the Business and Professions
23 Code.

24 (d) Before authorizing the administration of psychotropic
25 medication, the juvenile court judicial officer shall make the
26 following findings:

27 (1) The minor's caregiver has been informed, and the minor
28 has been informed in an age and developmentally appropriate
29 manner, about the recommended medications, the anticipated
30 benefits, the nature, degree, duration, and probability of side effects
31 and significant risks commonly known by the medical profession,
32 and any other recommended treatments, and that the minor has
33 been informed of the right to request a hearing pursuant to
34 subdivision (h).

35 (2) A plan is in place for regular monitoring of the minor's
36 medication plan, the effectiveness of the medication, and any
37 potential side effects, by the physician or in consultation with the
38 minor's caregiver, mental health care providers, and others who
39 have contact with the minor, as appropriate.

1 (e) If a hearing is conducted pursuant to subdivision (h), the
2 minor shall be present in a court for the hearing unless the minor
3 waives the right to attend after consulting with counsel or the court
4 finds that there is good cause for the minor's absence from the
5 proceedings.

6 (f) In any proceeding in the juvenile court following court
7 authorization for the administration of psychotropic medication
8 to a minor, the court may inquire about all of the following:

9 (1) As reported by the minor's physician, the effectiveness of
10 the medication and any side effects experienced by the minor, the
11 minor's progress toward meeting the goals outlined in the minor's
12 treatment plan and in any concurrent therapy or other mental
13 health treatment, and, if applicable, any steps recommended to
14 increase the effectiveness of the medication, to reduce side effects,
15 or to obviate the need for continued administration of the
16 medication.

17 (2) Any behavior changes and possible side effects that have
18 been observed by individuals who have regular contact with the
19 minor.

20 (3) Any statements or concerns expressed by the minor
21 regarding the medication.

22 (g) (1) The agency that completes the request for authorization
23 for the administration of psychotropic medication is encouraged
24 to complete the request within three business days of receipt from
25 the physician of the information necessary to fully complete the
26 request.

27 (2) Nothing in this subdivision is intended to change current
28 local practice or local court rules with respect to the preparation
29 and submission of requests for authorization for the administration
30 of psychotropic medication.

31 (h) Within seven court days from receipt by the court of a
32 completed request, the juvenile court judicial officer shall either
33 approve or deny in writing a request for authorization for the
34 administration of psychotropic medication to the minor, or shall,
35 upon a request by the parent, the legal guardian, or the minor's
36 attorney, or upon its own motion, set the matter for hearing.

37 (i) Psychotropic medication or psychotropic drugs are those
38 medications administered for the purpose of affecting the central
39 nervous system to treat psychiatric disorders or illnesses. These
40 medications include, but are not limited to, anxiolytic agents,

1 *antidepressants, mood stabilizers, antipsychotic medications,*
2 *anti-Parkinson agents, hypnotics, medications for dementia, and*
3 *psychostimulants.*

4 *(j) Nothing in this section is intended to supersede local court*
5 *rules regarding a minor's right to participate in mental health*
6 *decisions.*

7 *(k) The Judicial Council shall adopt rules and forms to*
8 *implement the provisions of this section on or before July 1, 2010.*

9 *(l) The department shall, after consultation with the State*
10 *Department of Mental Health, report to the Legislature regarding*
11 *the findings of the pilot project established pursuant to this section*
12 *before July 1, 2013.*

13 *(m) This section shall remain in effect only until January 1,*
14 *2014, and as of that date is repealed, unless a later enacted statute,*
15 *that is enacted before January 1, 2014, deletes or extends that*
16 *date.*

17 ~~SECTION 1. Section 369.5 of the Welfare and Institutions~~
18 ~~Code is amended to read:~~

19 ~~369.5. (a) If a child is adjudged a dependent child of the court~~
20 ~~under Section 300 and the child has been removed from the~~
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32 ~~for the request, a description of the child's diagnosis and behavior,~~
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36 ~~a description of any clinically indicated therapy recommended for~~
37 ~~the child to participate in during the six-month period until the~~
38 ~~next court review of psychotropic medication.~~

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40 ~~medication shall have conducted an examination of the child in~~

1 compliance with Section 2242 of the Business and Professions
2 Code.

3 (e) ~~Before authorizing the administration of psychotropic~~
4 ~~medication, the juvenile court judicial officer shall make the~~
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10 ~~significant risks commonly known by the medical profession, and~~
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14 ~~Health shall identify or develop and make available written~~
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22 ~~contact with the child, as appropriate.~~

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38 (2) ~~Any behavior changes and possible side effects that have~~
39 ~~been observed by individuals who have regular contact with the~~
40 ~~child.~~

~~(3) Any statements or concerns expressed by the child regarding the medication.~~

~~(f) (1) In counties in which the county child welfare agency completes the request for authorization for the administration of psychotropic medication, the agency is encouraged to complete the request within three business days of receipt from the physician of the information necessary to fully complete the request.~~

~~(2) Nothing in this subdivision is intended to change current local practice or local court rules with respect to the preparation and submission of requests for authorization for the administration of psychotropic medication.~~

~~(g) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, or shall, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing.~~

~~(h) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.~~

~~(i) Nothing in this section is intended to supersede local court rules regarding a child's right to participate in mental health decisions.~~

~~(j) The Judicial Council shall adopt rules and forms to implement the provisions of this section on or before July 1, 2010.~~

~~SEC. 2. Section 739.5 of the Welfare and Institutions Code is amended to read:~~

~~739.5. (a) If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent or guardian under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent or guardian upon making findings on the record that the parent or guardian poses no danger to the minor and has the~~

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10 review of psychotropic medication. On or before July 1, 2008, the
11 Judicial Council shall adopt rules of court and develop appropriate
12 forms for implementation of this section.

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- 1 ~~(i) Nothing in this section is intended to supersede local court~~
- 2 ~~rules regarding a minor's right to participate in mental health~~
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- 4 ~~(j) The Judicial Council shall adopt rules and forms to implement~~
- 5 ~~the provisions of this section on or before July 1, 2010.~~